

REMARKS

This is in full and timely response to the non-final Office Action dated September 26, 2005 (Paper No. 20050923). The present Amendment amends claims 1, 6 and 7 in order to further clarify a portion of the scope sought to be patented, and otherwise disputes certain findings of fact made in connection with the rejection of the claims. Support for these amendments can be found variously throughout the specification, including, for example, page 18, line 17, to page 21, line 13 of the original specification. No new matter has been added. Accordingly, claims 1 to 10 are presently pending in the application, each of which is believed to be in condition for allowance. Reexamination and reconsideration in light of the present Amendment and the following remarks are respectfully requested.

Claim to Priority

Acknowledgement of the proper receipt of the certified formal papers filed in connection with Applicant's claim to priority under 35 U.S.C. § 119(a)-(d) is noted with appreciation.

Information Disclosure Statements

Acknowledgement of the Information Disclosure Statements filed on July 12, 2004 and June 20, 2005 is noted with appreciation.

Claim Rejections- 35 U.S.C. § 102

In the Action, claims 1-2 and 4-8 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,850,681 to Yamanobe et al. ("Yamanobe"). This rejection is respectfully traversed.

Independent claims 1, 6 and 7 recite, *inter alia*, a/said liquid crystal device including/includes an uneven portion for giving a distribution to a thickness of said liquid crystal layer, wherein said uneven portion is an uneven shape, said uneven shape corresponding to a desired phase distribution; and **said uneven shape of said uneven portion corresponds to the spherical aberration and the comma aberration of a wavefront.**

In contrast, although Yamanobe arguably discloses an optical modulation device comprising a diffraction grating, Yamanobe fails to disclose, teach or suggest *at least an uneven shape of an uneven portion corresponds to the spherical aberration and the comma aberration of a wavefront* as recited in independent claims 1, 6 and 7. *See, e.g.*, col. 2, lines 26-36.

Further, although Yamanobe arguably discloses a diffraction grating having a rectangular relief pattern, a triangular corrugated shape and a sine wave shape, Yamanobe fails to disclose, teach or suggest *at least an uneven shape of an uneven portion corresponds to the spherical aberration and the comma aberration of a wavefront* as recited in claims 1, 6 and 7. *See, e.g.* col. 3, lines 62-67, and col. 8, lines 54-60.

Accordingly, because Yamanobe fails to disclose, teach or suggest each and every limitation of claims 1, 6 and 7, a *prima facie* anticipation rejection has not been established, and withdrawal of this rejection is respectfully requested. *See, e.g., Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”).

Moreover, aside from the novel limitations recited therein, claims 2, 4 and 5, being dependent either directly or indirectly upon allowable base claim 1, are also allowable at least by virtue of their dependency upon allowable claim 1. Additionally, aside from the novel limitations recited therein, claim 8, being dependent upon allowable base claim 7, is also allowable at least by virtue of its dependency upon allowable claim 7. Withdrawal of the rejection of these claims is therefore courteously solicited.

Claim Rejections- 35 U.S.C. § 103

In the Action, claims 3, 9 and 10 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,850,681 to Yamanobe et al. (“Yamanobe”). This rejection is respectfully traversed.

Claim 3 depends indirectly from claim 1 and claims 9 and 10 depend either directly or indirectly from claim 7. By virtue of these dependencies, Applicant submits that claims 3, 9 and 10 are allowable for at least the same reasons given above with respect to claims 1 and 7. In addition,

Applicant submits that claims 3, 9 and 10 are further distinguished over Yamanobe by the additional elements recited therein, and particularly with respect to each claimed combination. Applicant respectfully requests, therefore, that the rejection of claims 3, 9 and 10 under 35 U.S.C. § 103(a) be withdrawn, and these claims be allowed.

Conclusion

For at least the foregoing reasons, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. If the examiner has any comments or suggestions that could place this application in even better form, the examiner is invited to telephone the undersigned attorney at the below-listed number.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. SON-2875 from which the undersigned is authorized to draw.

Dated:

12-21-2005

Respectfully submitted,

By

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